

Respondent offers evidence of a witness who was present on the day of the accident and indicates that claimant was not the one who either pulled up or lowered the box being repaired. He also contradicts claimant's testimony that he notified respondent of the incident. Finally, the witness had visited claimant's home when claimant had missed work. Claimant did not mention an on-the-job injury. The decision by the Administrative Law Judge implies an assessment of the credibility of witnesses who testified before him. The Appeals Board agrees and finds that the Order denying benefits should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Order of Administrative Law Judge Alvin E. Witwer dated April 24, 1995 should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James F. Stanley, Kansas City, Missouri
Jeffrey S. Austin, Overland Park, Kansas
Alvin E. Witwer, Administrative Law Judge
David A. Shufelt, Acting Director